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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

SCOTT WAYNE ROWELL
1404 E. Vine Court
Visalia CA 93292

Respiratory Care Practitioner License No. 4692

Respondent.

Case No. R-1988

**FIRST AMENDED
PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 21, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 4692 to Scott Wayne Rowell (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on October 31, 2006, unless renewed.

3. In a disciplinary action entitled "In the Matter of Accusation Against Scott Wayne Rowell," Case No. R-1898, the Respiratory Care Board issued a decision effective August

1 16, 2004 in which Respondent's Respiratory Care Practitioner license was revoked. However, the
2 revocation was stayed and Respondent's license was placed on probation for a period of two (2)
3 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
4 incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Respiratory Care
7 Board (Board), Department of Consumer Affairs, under the authority of the following laws. All
8 section references are to the Business and Professions Code unless otherwise indicated.

9 5. Section 3710 of the Code states: "The Respiratory Care Board of California,
10 hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the
11 Respiratory Care Practice Act]."

12 6. Section 3718 of the Code states: "The board shall issue, deny, suspend, and
13 revoke licenses to practice respiratory care as provided in this chapter."

14 COST RECOVERY

15 7. Section 3753.5, subdivision (a) of the Code states:

16 "In any order issued in resolution of a disciplinary proceeding before the board, the
17 board or the administrative law judge may direct any practitioner or applicant found to have committed
18 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
19 prosecution of the case."

20 8. Section 3753.7 of the Code states:

21 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
22 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
23 and service fees."

24 9. Section 3753.1 of the Code states:

25 "(a) An administrative disciplinary decision imposing terms of probation may include,
26 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
27 monitoring the probation. "

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1 FIRST CAUSE TO REVOKE PROBATION

2 (Biological Fluid Testing)

3 10. At all times after the effective date of Respondent's probation, Condition 2
4 stated:

5 "Respondent, at his expense, shall participate in random testing, including, but not
6 limited to, biological fluid testing ...The length of time shall be for the entire
7 probation period...At all times, Respondent shall fully cooperate with the Board or
8 any of its representatives, and shall, when directed, submit to such tests and samples
9 for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other
10 controlled substances."

11 11. Respondent's probation is subject to revocation because he failed to comply
12 with Probation Condition 2, referenced above. The facts and circumstances regarding this
13 violation are as follows:

14 A. Respondent was informed that the Board had contracted with
15 Compass Vision Inc. (CVI) to perform random testing, collection and analysis of biological fluids.
16 Respondent was informed that he was responsible to telephone an automated, toll free number on
17 a daily basis to determine if he was required to report to a collection site for testing. The date and
18 time of all calls made to the system are logged into CVI's database.

19 B. Respondent failed to call CVI on the following dates in 2004:
20 December 5, 8, 12, 16, 19, 24, 26, 27, 31; in 2005: January 7, 8, 9, 12, 20, 22, February 13, 19,
21 25,27; March 3, 5, 6, 10, 19, 25, 30; April 7, 15, 17, 21, 22, 27, 29; May 1, 4, 7, 12, 13, 14, 19,
22 21; Jun 4, 8, 10, 11, 13, 17, 18, 23, 24, 29, July 1, 18, 21, 23; August 20, 2005; September 18, 19,
23 2005..

24 C. On January 4, 2005, at approximately 6:11 a.m., respondent
25 telephoned CVI and was directed to provide a specimen for testing and analysis. Respondent
26 failed to appear as directed.

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3. Ordering Scott Wayne Rowell to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: October 11, 2005

Original signed by Christine Molina for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant